

THE PROFESSIONAL MILITARY SERVICES INDUSTRY

HAVE WE CREATED A *NEW* MILITARY-INDUSTRIAL COMPLEX?

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ABSTRACT

Subject: The long term security and strategic implications of increased U.S. reliance on private military service contractors to execute national military and foreign policy objectives.

Purpose: The U.S. military has facilitated the growth and development of the privatized military service industry by awarding \$300 billion in military service contracts between 1994 and 2002. As a result, a full range of professional military services are now immediately available to any sovereign country, NGO or non-state actor with the ability to pay and without the time and cost required to develop organic capabilities. However, as painfully demonstrated at Abu Ghraib, unity of command and responsibility for contractor performance is often diluted through subsequent layers of subcontracts and ineffective contract management. As civilian contractors are called to perform mission essential duties on a global battlefield with increasingly fuzzy front lines, rational employment and effective contractual control of the growing military service industry is necessary to manage its increasing influence upon America's National Security.

Scope: This paper describes the development and growth of the professional military service industry and differentiates the service sector from modern mercenary firms and traditional defense industrial contractors. The scope is limited to military service providers currently employed directly or indirectly by the U.S. Government. The research addresses issues of battlefield control of civilian contractors, accountability and military effectiveness.

Summary: The use of contractors on the battlefield has grown in every U.S. conflict. Large multinational firms such as Halliburton, Bechtel and Blackwater provide civilian security and military related services to meet U.S. generated demand in a rapidly growing and economically attractive industry. 20,000 privately armed contract security personnel are currently employed in Iraq, constituting the second largest military force in the country. As highlighted during Phase IV Operations, contractual control and performance management deficiencies have called into question the appropriate role of civilian service contractors on the modern battlefield.

Conclusion: Due to the continued future demand for worldwide military services combined with economic realities limiting the size of standing armies, the worldwide military service industry will continue to grow and mature globally beyond the reach of U.S. control. The legitimate use of organized violence however, is an inherently governmental function and the ultimate exercise of sovereign authority. The U.S. must recognize and define the appropriate role of civilian contractors on the modern battlefield in order to avoid future strategic blunders such as that experienced at Abu Ghraib.

Recommendation: Similar to OMB Circular A-76 governing commercial activities, the U.S. must develop and enforce overarching military policy guidance defining the appropriate role of military service contractors that excludes them from performing inherently governmental functions. This policy guidance must be an interagency product resulting in a rational, risk based, contractual process, insulated from unwarranted political influence and universally applicable to all government activities.

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CHAPTER 1

THE MILITARY INDUSTRIAL COMPLEX

An Ominous Warning

“A vital element in keeping the peace is our...immense military establishment and a large arms industry...new in the American experience. We recognize the imperative need for this development. Yet we must not fail to comprehend its grave implications. We must guard against the unwarranted influence, whether sought or unsought, by the military industrial complex. The potential for the disastrous rise of misplaced power exists and will persist. The power of money is ever present and is gravely to be regarded.”

-President Eisenhower's Farewell Address to the Nation¹

Three days before relinquishing the Office of the President of the United States, President Eisenhower delivered his Farewell Speech to the nation sharing his final thoughts. He addressed the need to maintain balance between the public sector and private enterprise, between the nation's needs and wants, and the natural tension between our security and our freedoms. While at the height of the Cold War, he used his final forum to mobilize America's attention to two specific national threats: the unwarranted influence and power of the growing military industrial complex and of the need to “avoid the impulse to live only for today, plundering, for our own ease and convenience, the precious resources of tomorrow.”² Within the context of today's War on Terrorism, President Eisenhower provides an ominous prophecy. Although his remarks were shaped by the dynamics of the last century's efforts to contain communism, his wisdom and distrust of the military industrial complex remains applicable today.

¹ President Dwight D. Eisenhower, “Farewell Address to the Nation,” Washington, DC, 17 January 1961, URL:<<http://mcadams.posc.mu.edu/ike.htm>> Accessed 14 January 2005.

² Eisenhower, “Farewell Address,”3.

As the cost of Operation Iraqi Freedom and the federal budget deficit continue to escalate, President Eisenhower's warnings ring with renewed urgency. Attempting to contain military spending by reducing uniformed troop strength, the U.S. has unintentionally created a *new* military industrial complex of civilian service contractors. These civilians are no longer rear echelon support personnel, but now perform military essential front line services from battlefield security and force protection to operating armed unmanned aerial vehicles.³ As the traditional distinction between soldier and civilian contractor narrows, the modern nation-state risks losing its exclusive monopoly on the legitimate use of violence. Taken to the logical extreme, future conflicts may be fought as they were prior to the Peace of Westphalia, by private contractors, otherwise known as mercenaries.⁴

Guns For Hire

Due to the growth of the military service industry, professional capabilities are now immediately available to any sovereign government, non-governmental organization, or non-state actor, without incurring the time and cost required to develop organic military capabilities. Modern nation-states, the United Nations and non-governmental aid and relief organizations throughout the world, increasingly rely on private contractors to provide their security needs. As the industry competitors build their client list and develop their business reputation, many seek to differentiate themselves from their competition through specialization in specific service areas.⁵ As a result, a broad spectrum of military skills is now globally available from strategic advice

³ Laura Peterson, "Privatizing Combat, the New World Order," Center for Public Integrity, 28 October 2002, URL:<<http://www.public-i.org/bow/printer-friendly.aspx?aid=148>>, Accessed 12 January 2005.

⁴ Peter W. Singer, *Corporate Warrior* (Ithaca and London: Cornell University Press, 2003), 29.

⁵ John M. Olin and Peter W. Singer, "Corporate Warriors: The Rise and Ramifications of the Privatized Military Industry," *International Security*, Vol. 26, No. 3, (Winter 2001/2002), 23.

and training, to actual combat with hired soldiers.⁶ Turning back the pages of history, it is now possible to lease an entire combined arms military organization and conduct a regional campaign solely with hired mercenaries.⁷

For the foreseeable future, the continued worldwide growth of contracted military services is a forgone conclusion. Military and political considerations such as the increased complexity and specialization of modern weapon systems, self-imposed and host country troop limitations and the high-technology battlefield, will require even greater reliance on contracted military services in the future.⁸ The issue however, is that the U.S. unintentionally developed the military services industry out of practical necessity due to a shortage of available troops and in-house technical skills and capabilities. The infrastructure was created ad hoc in response to short-term imperatives, rather than long-term national strategic intent. Absent from the debate were the long-term consequences and national security implications of the professional military services industry as it continues to grow globally and disperse beyond the reach of U.S. control.

Strategic Impact

The Global War on Terrorism has been shaped by strategic events such as the public beheading of civilian contractors as well as contractor involvement in the interrogation of prisoners at Abu Ghraib and participation in armed combat operations.⁹ The presence of civilian contractors and the resulting strategic implications demand increased understanding and national debate concerning the proper role of military service contractors on the modern battlefield. As

⁶ Singer, 18.

⁷ Olin and Singer, 39.

⁸ Thomas K. Adams "The New Mercenaries and the Privatization of Conflict," *Parameters* (Summer 1999): 115.

⁹ Dana Priest, "Private Guards Repel Attack on U.S. Headquarters," *Washington Post*, Final Edition, 6 April 2004, A1.

the private military service sector is increasingly called upon to provide mission essential duties on a global battlefield with increasingly fuzzy front lines, considered thought and deliberate action is necessary to manage the national security implications resulting from the growth of this *new* variant of the traditional military industrial complex.

CHAPTER 2

CREATION OF THE PROFESSIONAL MILITARY SERVICE INDUSTRY

Employment of civilians to support military forces is as old as the history of warfare itself. During the American Revolution the Continental Army employed civilians to drive wagons, supply food and accomplish other support services.¹⁰ In every American conflict, civilians have been employed in ever-greater numbers.¹¹ The difference now however, is in how these civilians are employed. Prior to the Vietnam War, civilians performed non-mission essential support tasks, but due to the increasing complexity of the Vietnam era weapon systems, the employment of civilian technical support personnel became necessary.¹² This marked the beginning of an ever-expanding role of contract personnel into activities essential to tactical battlefield success and the blurring of the lines between soldier and civilian.

In order to understand the dynamics of this new industry, it is necessary to understand the inherent difference between a uniformed soldier and a civilian contractor, as well as the difference between the traditional military industry and the professional military service provider. A soldier is paid to go into harm's way at the bidding of the state to pursue national interests. A contractor on the other hand, owes a duty only to the terms of his contract. Their motivation is based on individual self-interest and economic profit, rather than a moral duty to a sovereign. This assumption of rational individuals making decisions in their own self-interest is an essential feature of free market capitalism. Every public corporation has the fiduciary duty to

¹⁰ Steven J. Zamparelli, *Contractors on the Battlefield: What Have We Signed Up For?* Air War College, Air University, Maxwell Air Force Base, AL March 1999, 5.

¹¹ Zamparelli, *Contractors*, 6.

¹² Zamparelli, *Contractors*, 7.

maximize economic returns to their shareholders (owners), and to act in their own self-interest in pursuing those returns. However, in the military sector, not every contractor is the same.

The traditional military industrial contractor, that of which President Eisenhower warned, is in the business of producing products for use by the military. The United States has long held the notion that the purpose of government is to govern, not to compete with private enterprise and has gone to great lengths to avoid direct competition with the private sector.¹³ Rather than rely on organic or in-house production, the United States has traditionally purchased the tools of war for its use from the traditional military industrial contractor.

In contrast, the professional military service firm produces no tangible product. They only provide the human resources necessary to accomplish their contracted service obligation. This differing business model results in an important distinction between these two types of military contractors. Whereby a soldier employing the tools of war provided by a traditional supplier is motivated to prevent conflict, the military service firm that provides the soldier actually requires conflict to create demand for his services.¹⁴

Outsourcing Military Services

In an effort to keep personnel costs under control and fully realize the long anticipated peace dividend following the collapse of the Soviet Union, the Department of Defense reduced troop strength and launched privatization programs to outsource positions and services whenever possible. Between 1990 and 2004, uniformed active duty military personnel were reduced by 700,000 members and DoD civilians were reduced by 300,000.¹⁵ While at the same time,

¹³ Office of Management and Budget, Circular No. A-76(Revised), Washington, DC: 29 May 2003, 1. Cited hereafter as OMB A-76.

¹⁴ Singer, 41.

¹⁵ Zamparelli, *Contractors*, 9.

increased regional instability and ethnic conflict resulted in numerous peacekeeping missions and other engagement efforts.¹⁶ For example, U.S. Army overseas deployments totaled just 10 during the entire period of the Cold War compared to 36 since 1989.¹⁷ The resulting gap between the demand for military personnel and the ready supply of troops from the all-volunteer force was mitigated through increased military service contracting.

Concurrently, DoD fully participated in the global commercial trend away from vertical integration, in favor of outsourcing all but core functions.¹⁸ During the first Gulf War, 5,200 contractors supported 541,000 military personnel, while in the Balkans 12,000 deployed civilians supported 9,000 military members.¹⁹ Illustrating DoD's ongoing commitment to this effort, the 2001 Quadrennial Defense Review (QDR) states "Only those functions that must be done at DoD should be kept at DoD."²⁰

Not only has the number of contractors increased, but the range of services provided has grown as well. During Operation Iraqi Freedom some 20,000 private employees followed coalition troops into Iraq performing essential functions such as identifying targets, maintaining communications systems, operating supply convoys and providing oil field security.²¹ As a direct result of the increasing demand for military services, the number of U.S. based military service contractors has tripled since the first Gulf War.²²

¹⁶ Peterson, 2.

¹⁷ Gordon L. Campbell, Paper Prepared for Presentation to the Joint Services Conference on Professional Ethics 2000, "Contractors on the Battlefield: The Ethics of Paying Civilians to Enter Harm's Way and Requiring Soldiers to Depend upon Them," Springfield, Va. 27-28 January 2000, 1.

¹⁸ George Cahlink, "Army of Contractors," Government Executive Magazine (1 February 2002), 2.

¹⁹ Cahlink, "Army of Contractors," 2.

²⁰ Cahlink, "Army of Contractors," 2.

²¹ Joshua Kurlantzick, "Outsourcing the Dirty Work, The Military and its Reliance on Hired Guns," The American Prospect, Vol 14, Issue 5, 1 May 2003, URL:<<http://www.prospect.org/V14/5/kurlantzick-j.html>>, Accessed 19 October 2004, 1.

²² Kurlantick, "Outsourcing the Dirty Work," 1.

A Typical Military Services Contractor

Military Professional Resources, Inc. (MPRI) of Alexandria, Virginia represents a typical U.S. based military service contractor. Providing professional training and support to worldwide military forces, they grew from 8 permanent employees in 1988 to 900 in 2003. In addition, they maintain an active database of 12,000 retired military members available for contract assignment.²³ MPRI is currently under Pentagon contract to develop curriculum for DoD's Senior Level War Colleges, they operate Reserve Officer Training Programs (ROTC) at more than 200 Universities and they assist the Colombian Ministry of Defense execute in-country counter drug operations.²⁴ Currently, they are under contract to the U.S. Agency for International Development (USAID) to train military forces in Nigerian and Equatorial Guinea.²⁵

Size of the Military Services Market

Operation Iraqi Freedom has greatly increased demand for private military services, and due to the Abu Ghraib debacle, ignited the debate over the appropriate role of military contractors. However the military service industry was already established within the U.S. military infrastructure well before the Global War on Terrorism. Each of the four services has employed large indefinite delivery, indefinite quantity service contracts to manage smaller subcontractors during operations in the Balkans, Somalia, Haiti, Afghanistan and Iraq.²⁶ Illustrating the size of the military services market, \$2 billion out of the \$13.8 billion total

²³ Kurlantick, "Outsourcing the Dirty Work," 1.

²⁴ Ken Silverson, "Current Trends on War Outsourcing," *Nizkor Int. Human Rights Team*, 03 May 2001, URL:<<http://www.peace.ca/privatizationofwar.htm>>, Accessed 24 November 2004, 5.

²⁵ Silverson, "Outsourcing," 6.

²⁶ United States General Accountability Office, *Military Operations. DOD's Extensive Use of Logistics Support Contracts Requires Strengthened Oversight*, Report to Congressional Requesters, GAO-04-854, July 2004, 6. Cited hereafter as GAO 04-854.

expended in the Balkans between 1995 and 2000 was allocated for support service contracts.²⁷ The largest of these contracts is the Army's Logistics Civil Augmentation Program (LOGCAP) contract with Kellogg, Brown and Root, a wholly owned subsidiary of Halliburton.²⁸ Overall, Halliburton has been awarded \$10.8 billion for work in Iraq and has become the Army's largest individual contractor.²⁹ As an example of the growing reliance on service contractors within the U.S. Army, Secretary White reported in fiscal year 2003 that he allocated one third of the Army's total obligation authority for contract support.³⁰ Worldwide annual military service contract revenues now exceed \$100 billion³¹ and was one of the few sectors in the U.S. economy that gained following the September 11th attacks.³² For the professional military services firm, business during the post Cold War era and specifically in support of Operation Iraqi Freedom has indeed been good.

²⁷ Cahlink, "Army of Contractors," 2.

²⁸ GAO 04-854, 8.

²⁹ Robert O'Harrow, "Halliburton Is a Handy Target for Democrats," *Washington Post*, Final Edition, 18 September 2004, A1+.

³⁰ Thomas E. White, Secretary of the Army, Memorandum for Undersecretaries of Defense (Acquisition, Technology and Logistics, Comptroller/Chief Financial Officer, Personnel and Readiness), subject, "Accounting for the Total Force: Contractor Work Force," 8 March 2002.

³¹ Peter W. Singer, Profits, and the Vacuum of Law: Privatized Military Firms and International Law," *Columbia Journal of Transnational Law* 42, (2004), 524.

³² Singer, 232.

CHAPTER 3

CONTRACTING MILITARY SERVICES

200 years ago as the nation-state rose in dominance, long held notions of using hired combatants to conduct the monarch's military campaigns began to wane. "It was considered correct that every man should fight for his country and dishonorable that a man should serve under another flag."³³ The legitimate use of violence became the sole responsibility of the nation-state, to be carried out by its own citizens. At its most basic level, the function of government and its reason for existence is to provide for common security. This concept is enumerated in the U.S. Constitution as "to provide for the common defense."³⁴ According to the United Nations Commission on Human Rights, "national security and public safety and action to combat rebels, traffickers and terrorists are not merchandise that can be freely sold. They are, instead, matters related to the State's very existence and *raison d'être*; providing security and maintaining law and order is solely the State's responsibility."³⁵

Within an environment of escalating personnel costs and increased budgetary pressure, governments throughout the world have begun to outsource functions to the private sector that were once considered the sole domain of the state. Under the guidance of the Office of Management and Budget (OMB) Circular No. A-76, the United States has aggressively outsourced core functions as well. This Circular requires all activities performed by government personnel to be designated as either a commercial activity, which may be eligible for competitive

³³ Thomas K. Adams "The New Mercenaries and the Privatization of Conflict," *Parameters* (Summer 1999): 106.

³⁴ Singer, 226.

³⁵ United Nations, *Excerpts from the 2001 Report of the U.N. Special Rapporteur on Use of Mercenaries* [E/CN.4/2001/19, Nizkor Int. Human Rights Team (03 May 2001), [URL:<http://www.peace.ca/privatizationofwar.htm>](http://www.peace.ca/privatizationofwar.htm), Accessed 24 November 2004, 19.

outsourcing, or as inherently governmental.³⁶ Inherently governmental activities are “so intimately related to the public interest as to mandate performance by government personnel.”³⁷ They “require the exercise of substantial discretion in applying governmental authority and/or making decisions for the government...[it is]...the exercise of sovereign government authority.”³⁸ Circular A-76 describes an inherently governmental function that must be performed by government personnel as “determining, protecting, and advancing economic, political, territorial, property, or other interests by military or diplomatic action...significantly affecting the life, liberty, or property of private persons.”³⁹ It provides wide latitude for military operations and does not imply that deployed or battlefield support should be considered a commercial activity that must be commercially competed on a cost basis.

The Decision to Outsource

Ideally the decision to outsource military functions would be the result of a coherent process integrating the long-term effects on national military capabilities and strategy. It should not be the result of a fragmented, contract-by-contract, service-by-service response to budget driven personnel reductions. In any case, the decision to vertically integrate operations or to outsource specific functions is a basic business strategy option faced by every corporate organization. This decision is not a simple one and often results in significant unintended consequences. Government outsourcing of military services is no exception.

The fundamental premise of outsourcing is to introduce and maintain competition using market forces to impose cost discipline to an area that would otherwise represent an internal

³⁶ OMB A-76, 1.

³⁷ OMB A-76, 2.

³⁸ OMB A-76, 2.

³⁹ OMB A-76, Attachment A, A-2.

monopoly. In the military sector where the state has traditionally maintained a monopoly, the introduction of competition does indeed hold the promise of enhanced cost control through third party subcontracts and increased employment of low wage foreign and host country nationals.⁴⁰ However, when determining specifically which services to outsource, certain contractual fundamentals hold true. Elements of a successful outsourcing program include considerations such as, if the needed service is temporary in nature, has well defined requirements, requires specialized training, equipment or technology and the extent to which performance may be effectively monitored.⁴¹ A negative answer to any of the preceding elements portends a difficult contractual experience.

Temporary Needs

With consideration to military service contracts, armed conflict is hopefully temporary in nature and would thus meet the first test. The reality since WWII however, indicates the opposite. The U.S. still maintains 40,000 service members in Japan,⁴² 71,000 in Germany⁴³ and 35,000 in Korea. Considering the experience of the last century, whether military services really represent a temporary need is open for debate.

Well Defined Requirements

A well-defined contractual environment is the second test. The converse is known as an unforeseen site condition. Basically, if the conditions upon which the contractor must work are different than those described or implied at the time of bidding, the contractor is due additional

⁴⁰ Kevin Sullivan, "Poor Salvadorans Chase the Iraqi Dream," *Washington Post*, Final Edition, 9 September 2004.

⁴¹ John A. Rehfuss, *Contracting Out In Government*, San Francisco and London: Jossey-Bass Publishers, 1989, 60.

consideration. This area is extremely problematic with respect to outsourcing battlefield services. To make the assumption that actual battlefield conditions may be projected and communicated with certainty is perilous at best. Additionally, what actually is known often cannot be provided to potential contractors due to operational and national security considerations.⁴⁴ This knowledge risk is recognized and mitigated by the use of cost-plus award fee indefinite-delivery/indefinite-quantity service contracts, which shifts the majority of the uncertainty risk back to the government.⁴⁵ With this contract structure the contractor is “reimbursed for reasonable, allowable, and allocable costs incurred to the extent proscribed in the contract.”⁴⁶ The cost-plus feature reduces future claims for changed site conditions and provides for increased contractual flexibility, but frequently leads to poor cost control.

Transparent Source Selection

When requirements are difficult to define, the government faces a second dilemma of how to maintain a true competitive environment and a transparent source selection process. The basic premise of effective outsourcing requires sustained competition to impose cost discipline. However, when contractors are unable to compete on a rational cost basis, the selection mechanism defaults to less tangible and more subjective factors, such as past performance, corporate capabilities and often, whether real or perceived, presentation skill and the ability to influence the selection process. Unfortunately, when major contracts are awarded secretly or with less than full and open competition, unwarranted external influence and manipulation of the process is possible. Anything less than full transparency diminishes the credibility of the

⁴² Johnson Chalmers, *The Sorrows of Empire: Militarism, Secrecy, and the End of the Republic*, New York, 2004, 202.

⁴³ Chalmers, 198.

⁴⁴ Singer, 153.

⁴⁵ Pratap Chatterjee, *Iraq, Inc.* New York: Seven Stories Press, 2004, 41.

selection process and the effectiveness of the outsourcing program. If external observers, competing bidders or public opponents of military activities cannot independently satisfy themselves of the veracity of the procurement, legal delays, contract protests, and loss of public support will follow.

Specialized Training

The third element for activities in which outsourcing would be appropriate is when specialized training or equipment is needed. This element is particularly applicable to the traditional military weapons producer, as the government simply does not maintain the technical and industrial infrastructure to produce modern weaponry. However, this element is not met in the military service sector where the government maintains the core capability as well as the training infrastructure necessary for the services being outsourced. The availability of highly trained specialized forces on the world labor market is the precise factor that currently makes military service contracting an economically viable business endeavor.

Within the service sector, recruiting and training of quality personnel is the largest up-front cost. As compared to the traditional weapons supplier, recruiting and training of new personnel is analogous to the development costs of a new product. The difference however, is when a weapons manufacturer develops a new product, he receives a patent and owns the intellectual property rights. In contrast, upon the expiration of his enlistment contract, the soldier is available to the highest bidder. Since the government does not require military personnel to sign non-compete contracts as a condition of employment, military service providers know they

⁴⁶ GAO 04-854, 7.

will be able to hire fully trained and experienced military personnel away from the all-volunteer force simply by offering increased compensation.⁴⁷

This supply and demand dynamic represents a circular problem for U.S. defense planners as it was the lack of available troops that encouraged military service contracting in the first place. To meet their contractual requirements, military service providers often turn to the largest, and in many cases the only, labor pool with security clearances and the level of specialized training required by their contract, the U.S. military. The common practice of hiring top talent away from the active forces only to lease it back frustrates the original problem. In Iraq, this issue has become so severe that DoD has initiated unprecedented reenlistment bonuses of up to \$150,000 for elite troops with the specific skills currently demanded by the military service contractors.⁴⁸

Performance Monitoring

The last element for successful outsourcing is effective performance monitoring. Performance monitoring of a cost-plus award fee contract is extremely difficult in the best of circumstances, but is next to impossible in a wartime environment. Currently Halliburton is the largest contractor in Iraq and has received \$6.4 billion for managing base camp facilities and operating supply convoys.⁴⁹ \$1.8 billion of the work has not been accounted for properly and should be withheld pending proper “definitization”.⁵⁰ To prevent disruption of essential services however, the Army requested and received a withholding waiver to “ensure we’re continuing our

⁴⁷ Deborah Avant, “Think Again: Mercenaries,” *Foreign Policy*, July/August 2004, URL:<http://www.foreignpolicy.com/story/cms.php?story_id=2577&print=1>, Accessed 11 January 2005, 3.

⁴⁸ “Military Offers More cash Bonuses,” *USA Today*, 22 February 2005, URL:<http://www.military.com/newscontent/0,13319,FI_Bonus_022205,00.html>, Accessed 23 February 2005.

⁴⁹ Robert O’Harrow, “Halliburton Payments Won’t Be Withheld,” *Washington Post*, Final Edition, 4 February 2005, E1+.

⁵⁰ Robert O’Harrow, “Halliburton Payments”.

contract operations in the theater.”⁵¹ Rather than enforce contract compliance, it was more expedient to pay the full amount rather than resolve the issue. Battlefield priorities took precedence over contract administration.

A second example of the difficulties inherent in effectively managing battlefield contracts was painfully demonstrated in Iraq at the Abu Ghraib prison facility. Due to a shortage of available military interrogators, task orders were issued through an existing Interior Department information technology service contract to quickly obtain civilian interrogator services. As this new requirement was clearly out of scope and an inappropriate use of the existing computer support contract, it was ill equipped to ensure properly trained and experienced contract personnel were provided to the Prison Commander. According to the investigation of the abuses at Abu Ghraib by Major General Fay, “the contracting system failed to ensure that properly trained and vetted linguistic and interrogator personnel were hired to support operations at Abu Ghraib...It is apparent that there was no credible oversight of contract performance.”⁵² Unity of command and responsibility for contractor performance was diluted through inappropriate contracting processes, subsequent layers of subcontracts, and lack of adequate oversight.⁵³ Further illustrating the lack of effective contract management, five months after the story broke, the Pentagon remained unable to identify the specific organization responsible for execution of this multimillion-dollar contract.⁵⁴

While the Abu Ghraib experience placed the question of battlefield service contracting into public view, the underlying issues were already well known within the Department of

⁵¹ Robert O’Harrow, “Halliburton Payments”.

⁵² Ellen McCarthy, “Changes Behind the Barbed Wire,” *Washington Post*, Final Edition, 13 December 2004, E9.

⁵³ Ellen McCarthy, “Changes,” E9.

⁵⁴ “Army Chief Warned About Military Contractors,” *FOXNews.com*, 7 May 2004, URL:<http://www.foxnews.com/printer_friendly_stroty/0,3566,119272,00.html>, Accessed 11 January 2005.

Defense.⁵⁵ In 2002 retired General Thomas White, Secretary of the Army, issued a memo to the Undersecretaries of Defense warning of the lack of visibility of the contracted work force. He highlighted the fact that while the services have been significantly downsized, no similar analysis had been made of the number, cost or missions supported by contract personnel.⁵⁶ When questioned specifically about Abu Ghraib, White indicated it would not be appropriate to hire contract interrogators. “You can hire translators and people that would support the interrogation or the intelligence gathering efforts, certainly, but I would not think it would be wise to give up control of that process.”⁵⁷

Unity of Effort

Aligning the state’s strategic objectives with the contractor’s profit motive within the fog and friction of war while maintaining a truly competitive environment, is problematic at best and is perhaps the most difficult contractual challenge imaginable.⁵⁸ In spite of DoD’s significant service contracting experience and expertise, the General Accountability Office (GAO) has issued a series of reports highly critical of DoD’s management of their logistics support contracts.⁵⁹ GAO concludes “DoD, particularly the Army, has more than 10 years of experience using logistics support contracts such as LOGCAP and the Balkans Support Contract, yet it often makes the same mistakes in new deployments.”⁶⁰ They “found significant problems in almost every area, including ineffective planning, inadequate cost control, insufficient training of contract management officials, and a pattern of recurring problems with controlling costs,

⁵⁵ “Army Chief Warned”.

⁵⁶ Thomas E. White, Memorandum, 8 March 2002.

⁵⁷ “Army Chief Warned”.

⁵⁸ Singer, 153.

⁵⁹ United States General Accountability Office, *Need to Strengthen Guidance and Oversight of Contingency Operations Costs*, Report to the Chairman and Ranking Minority Member, Subcommittee on Defense, Committee on Appropriations, U.S. Senate, GAO-02-450, May 2002, 1. Cited hereafter as GAO 02-450.

meeting schedules, documenting purchases, and overseeing subcontractors.”⁶¹ While highly critical of the Army and their major contractor, Halliburton, GAO does not address the fundamental challenge of executing competitive cost based service contracts within the complex environment of the modern battlefield. As long as military service contracting continues to grow, GAO will continue to prepare reports criticizing DoD’s management of these contracts. GAO identifies the symptoms, but fails to address the underlying issue of the proper role of military service contractors and whether the specific military function should be outsourced at all.

Military Effectiveness

Now that civilian personnel are performing mission essential battlefield functions, a primary concern of every military commander should be whether his contractors will remain at their posts when they are needed most.⁶² Civilians are not subject to the same rules as military personnel and cannot be compelled to go in harm’s way. Continuous availability of the contract workforce during combat operations is a matter of life and death for the troops and tactical success or failure for the commander. Faced with this dilemma, the military commander’s first response will be to substitute military personnel for civilians during times of crisis. However, reliance on contractors during peacetime will cause the necessary military skills to atrophy. Military personnel with the appropriate skills will simply not be available when needed. Maintaining the necessary skills and personnel within the military force structure is redundant and would eliminate the hoped for cost savings from contracting.

⁶⁰ GAO 04-854, 49.

⁶¹ GAO 02-450, 1.

⁶² Zamparelli, “Contractors,” 17.

And finally from the 16th Century, Nicolo Machiavelli provides a historical perspective on the use of battlefield contractors:

“Auxiliaries are useless and dangerous; and if one holds his state based on these arms, he will stand neither firm nor safe...the fact is, they have no other attraction or reason for keeping the field than a trifle of stipend, which is not sufficient to make them willing to die for you. They are ready enough to be your soldiers whilst you do not make war, but if war comes they take themselves off or run from the foe.”⁶³

Unwarranted Influence

As military service contracting has become the new military growth sector, the traditional revolving door between government and the military industrial complex has migrated as well.

“The larger become the military contractors, the more influence they have in Congress and the Pentagon, the more they are able to shape policy, immunize themselves from proper oversight, and expand their reach. The private firms are led by ex-generals, the most effective lobbyists of their former colleagues – and frequently former subordinates – at the Pentagon. As they grow in size and become integrated into the military-industrial complex, their political leverage in Congress and among civilians in the executive branch grows”.⁶⁴

Certainly the most visible actor moving between government and industry is Vice President Cheney. He moved from Secretary of Defense in 1992 to CEO of the Army’s largest services contractor, Halliburton, and back as Vice President in 2000. While receiving the majority of the headlines, he is but the tip of the iceberg. Secretary of Defense Frank Carlucci, Secretary of State James Baker and Director of the Office of Management and Budget (OMB) Richard Darman, are all involved in the military services industry as executives, board members or consultants.⁶⁵ Demonstrating growing influence, the industry spent \$32 million in 2001 to lobby Congress and successfully block legislation that would require contracting agencies to

⁶³ Nicolo Machiavelli, *The Prince*, trans. W. K. Marriott, 1515, URL:<<http://www.constitution.org/mac/prince12.htm>>, Accessed 18 January 2005, Chap XII.

⁶⁴ Mokhiber, 2.

⁶⁵ Peterson, 3.

demonstrate actual cost savings to justify their contracts.⁶⁶ The foreign policy implications of a well-organized and well-connected special interest group that stands to profit from national conflict is troubling. As the U.S. develops its foreign policy through democratic national debate, the involvement of this influential group that not just profits from, but actually requires conflict to succeed, is counterproductive to U.S. national interests.

⁶⁶ Barry Yeoman, "Soldiers of Good Fortune," *The Independent Weekly*, (3 July 2003), 4.

CHAPTER 4

CONCLUSION

From the dawn of civilization and as long as human conflict exists, military skills and expertise will remain in demand. While the vast majority of U.S. based corporations supplying military services act within the bounds of U.S. law and serve as an extension of U.S. foreign policy, their vast overseas operations facilitate the worldwide growth of the privatized military service industry, driving it beyond the reach of effective U.S. control. However, the very existence of a global industry that requires ongoing conflict to achieve economic success is incompatible with stated U.S. strategic goals of global peace and security.

The legitimate use of organized violence is by definition, an inherently governmental activity. At the most basic level, the decision to take a human life is the ultimate application of sovereign authority. This authority must only be exercised by individuals fully accountable to the government. Arguments that private contractors do not perform inherently governmental functions because they only act in accordance with contract terms issued by the state, are without merit. Regardless of the contractual relationship, by their actions on the battlefield, military service contractors become an instrument of foreign policy.⁶⁷ As demonstrated by inexperienced and improperly trained contract interrogators at Abu Ghraib, decisions made by contractors at the lowest tactical level may have as much strategic impact as decisions made at the highest level of government.

The decision to outsource military functions to private service providers cannot be taken lightly. However, despite the significant contractual challenges military outsourcing presents,

⁶⁷ Bruce D. Grant, "U.S. Military Expertise for Sale: Private Military Consultants as a Tool of Foreign Policy," U.S. Army War College Strategy Research Project, Carlisle Barracks, Pa. May 1998, 102.

the reality is the Department of Defense has already made this decision out of short-term necessity on a case-by-case basis, rather than a rational strategic study of long-term consequences, capabilities and security implications. The military service industry has now matured into a global multinational network of corporations representing all levels of military expertise and capabilities. Similar to the U.S. experience introducing nuclear weapons to the world, once unleashed, it is impossible to put the private military services genie back in the bottle. The Department of Defense has simply become too dependent on private contractors to do without.

While DoD initiated service contracting to maintain capabilities with fewer active duty personnel, the underlying premise of outsourcing is cost savings. However for a variety of reasons, outsourcing military services, especially on the battlefield, fails to demonstrate true cost effectiveness. Because military services are inherently governmental, direct cost competitions as required by OMB Circular A-76 for commercial activities, were not conducted. In areas where DoD has eliminated the outsourced infrastructure, returning to Government, or in-house production, is no longer a viable option. The core issue is one of business efficiency versus military effectiveness.⁶⁸ These two concepts have become confused. Combat effectiveness requires redundant systems and redundancy is inherently inefficient.

This is not to say all military outsourcing should be avoided. Future military service outsourcing is a reality. What is required however, is an overarching, rational, risk based contracting decision process. The Department of Defense should implement outsourcing guidelines similar to those found in OMB Circular A-76, that identify areas of low strategic importance, where outsourcing should be considered and areas of high strategic importance,

⁶⁸ Singer, 235.

where outsourcing proposals would require higher level review. In all cases, contracting for essential battlefield services remains inherently governmental and must be treated as such.

True to any competitive businesses model in a capitalistic society, advertising increases consumption, and the military services industry is no exception. As the industry markets their services and capabilities to government decision makers, they will position themselves to influence foreign policy in order to increase sales. While U.S. foreign policy has traditionally been influenced by economic concerns such as free trade and foreign aid, policy decisions concerning the legitimate use of coercive violence must remain the exclusive domain of national security. The potential outcomes are too important to allow the debate to be distorted by the influence of Wall Street or Madison Avenue.

With the current experience of the major military service providers during Operation Iraqi Freedom and the subsequent rebuilding efforts, it is apparent that a *new* Military Industrial Complex has been developed. President Eisenhower's warnings of 1961 remain true today. We must "guard against unwarranted influence" and "misplaced power."⁶⁹ The revolving door between government and industry is swinging freely and billions of taxpayer dollars are involved. Like sovereign nation-states, for profit corporations will pursue their own self-interests. The self-interest of this industry requires conflict to succeed. U.S. National Security and Foreign Policy is too important to outsource. It is the ultimate Inherently Governmental Function.

⁶⁹ Eisenhower, "Farewell Address,"2.

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